

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
at CHATTANOOGA

UNITED STATES OF AMERICA)	
)	Case No. 1:13-cr-39
)	
v.)	
)	MATTICE / LEE
LARRY MITCHELL GERTSMAN)	

ORDER

Magistrate Judge Susan K. Lee filed a report and recommendation recommending the Court: (1) grant Defendant's motion to withdraw his not guilty plea to Count One of the seven-count Indictment; (2) accept Defendant's plea of guilty to the lesser included offense of the charge in Count One, that is of conspiracy to manufacture and distribute a mixture and substance containing a detectable amount of methamphetamine, a Schedule II controlled substance, in violation of 21 U.S.C. §§ 846 and 841(b)(1)(C); (3) adjudicate Defendant guilty of the lesser included offense of the charge in Count One of the Indictment, that is of conspiracy to manufacture and distribute a mixture and substance containing a detectable amount of methamphetamine, a Schedule II controlled substance, in violation of 21 U.S.C. §§ 846 and 841(b)(1)(C); (4) defer a decision on whether to accept the plea agreement until sentencing; and (5) find Defendant shall remain in custody until sentencing in this matter [Doc. 130]. Neither party filed a timely objection to the report and recommendation. After reviewing the record, the Court agrees with the magistrate judge's report and recommendation. Accordingly, the Court **ACCEPTS** and **ADOPTS** the magistrate judge's report and recommendation [Doc. 130] pursuant to 28 U.S.C. § 636(b)(1) and **ORDERS** as follows:

- (1) Defendant's motion to withdraw his not guilty plea to Count One of the Indictment is **GRANTED**;

- (2) Defendant's plea of guilty to the lesser included offense of the charge in Count One, that is of conspiracy to manufacture and distribute a mixture and substance containing a detectable amount of methamphetamine, a Schedule II controlled substance, in violation of 21 U.S.C. §§ 846 and 841(b)(1)(C) is **ACCEPTED**;
- (3) Defendant is hereby **ADJUDGED** guilty of the lesser included offense of the charge in Count One, that is of conspiracy to manufacture and distribute a mixture and substance containing a detectable amount of methamphetamine, a Schedule II controlled substance, in violation of 21 U.S.C. §§ 846 and 841(b)(1)(C).
- (4) A decision on whether to accept the plea agreement is **DEFERRED** until sentencing; and
- (5) Defendant **SHALL REMAIN** in custody until sentencing in this matter which is scheduled to take place on **Monday, February 10, 2014 at 9:00 a.m. [EASTERN]** before the Honorable Harry S. Mattice, Jr.

SO ORDERED.

ENTER:

/s/Harry S. Mattice, Jr.
HARRY S. MATTICE, JR.
UNITED STATES DISTRICT JUDGE